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The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Department of Public Health  
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**M E M O R A N D U M**

**TO:** Massachusetts Local Boards of Health

**FROM:** Paul Halfmann, Assistant Director  
Community Sanitation Program

**DATE:** May 2, 2005

**RE:** Submetering of Water Revisions to 105 CMR 410.000

On December 16, 2004, the Governor signed Chapter 417 of the Acts of 2004, entitled *An Act Authorizing Water Submetering in Residential Tenancies* (hereafter referred to as the "Act"). This Act became effective March 16, 2005. The Act, codified as M.G.L. c. 186, §22, authorizes landlords of residential property to separately charge tenants for actual water and sewer service costs provided that all of the comprehensive requirements of the Act are met. Among its many specific provisions, the Act:

- Prohibits water submetering unless the dwelling unit is separately submetered or, for single-family rentals, the water usage is under the complete control of the tenant, to ensure that tenants are only charged for water actually used;
- Requires landlords to have licensed plumbers install any water submetering devices at the expense of the landlord;
- Requires landlords to certify in writing to the local Board of Health that the dwelling unit is in compliance with the requirements of the Act prior to separately charging for water or sewer service and to have a written agreement with tenants;
- Requires water conservation devices on all showerheads, sinks and toilets, at the landlord's expense, prior to separately charging for water or sewer service;

- Permits water submetering only in new tenancies created after the effective date of the Act, except that water submetering is not permitted in public housing dwelling units;
- Provides a process for tenants to report leaks, contest bills, and question the accuracy of water submeters and to only pay for water costs resulting from actual use;
- Requires landlords to remain as the water company customer and to be responsible for payment of water supplied by the water company;
- Prohibits landlords from shutting off water to a residential dwelling for non-payment of water or sewer costs but permits landlords to pursue all other legal remedies to collect bills, including deducting unpaid bills from security deposits;
- Authorizes the Department of Public Health to promulgate such additional regulations to the state sanitary code as it determines to be necessary to implement this section.

Enclosed you will find a copy of the revised regulations, 105 CMR 410.000, and the SUBMETERING OF WATER AND SEWER CERTIFICATION FORM. Any landlord planning to charge tenants for the use of water and sewer must use the certification form attached.

The Community Sanitation Program is in the process of placing the certification form and revised regulations on our website, <http://www.mass.gov/dph/dcs/dcs.htm>. A copy of M.G.L. c. 186, §22 may be downloaded by visiting, <http://www.mass.gov/legis/laws/mgl/186-22.htm>.